

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6803**

**BILL NUMBER:** HB 1184

**DATE PREPARED:** Feb 28, 2000

**BILL AMENDED:** Feb 28, 2000

**SUBJECT:** Cemeteries.

**FISCAL ANALYST:** Bernadette Bartlett

**PHONE NUMBER:** 232-9586

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill contains the following provisions:

*Survey of Cemeteries or Burial Grounds:* The Department of Natural Resources, alone or with the assistance of certain entities, may survey and register all burial grounds in Indiana in a registry that the Department establishes and maintains. The DNR may accept gifts and grants and establish a trust fund for the cemetery survey.

*Disturbing Ground Within 100 Feet of a Cemetery or Burial Grounds:* This bill requires a person who wishes to disturb the ground within 100 feet of a recorded cemetery or burial ground for erecting, altering, or repairing a structure to submit a development plan to the Department for approval according to standards established by rule. A separate approval procedure is established for plans of governmental entities. Penalties are provided for violations of this requirement.

*Recording Surveys of Burial Grounds:* A person who records any interest in property that contains a burial ground must record a survey showing the approximate location of all human remains. This bill provides penalties beginning January 1, 2003, for failure to record this information.

*Transfer of Property Containing a Cemetery or Burial Ground:* This bill requires a person who records any interest in property where a burial ground or cemetery is known to be located to record the deed to the property with the appropriate county recorder. The deed must indicate that the deed pertains to property on which a burial ground or cemetery is known to be located. The county recorder must send a copy of the deed to: (1) the Department of Natural Resources; and (2) the local cemetery board, or if no local cemetery board exists, to the county commissioners; not later than thirty (30) days after the deed is recorded.

**Effective Date:** July 1, 2000.

**Explanation of State Expenditures:** (Revised) With respect to surveying and recording burial ground information, the impact will depend on what actions the DNR elects to take to establish a program to survey and record burial ground information. Expenses for the DNR could be reduced if information is available at the local level. The format of the information available would also affect costs. The DNR could also work with other non-state entities and/or volunteers, which could further reduce expenditures.

The DNR would need to hire one staff person (a PAT II). Personnel costs for a PAT II are estimated at \$41,733 for FY 2001 and \$41,588 for FY 2002, including fringe benefits and other costs. The DNR will be able to absorb these expenses given their current budget.

A person who disturbs the ground within 100 feet of a recorded burial ground for the purpose of development without having an approved development plan or in violation of an approved plan commits a Class A misdemeanor. However, the violation constitutes a Class D felony if the individual disturbs buried human remains or grave markers while committing the offense. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$17,500 in FY 1998. Individual facility expenditures range from \$11,900 to \$29,400. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten and a half months.

**Explanation of State Revenues:** The DNR may accept gifts, donations, and grants to help finance the burial ground survey. A trust fund may be established that is composed of gift and grant money.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the State General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Beginning January 1, 2003, failure to record a survey locating a burial ground constitutes a Class C infraction. The maximum judgment for a Class C infraction is \$500, which is deposited in the State General Fund. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund. In the case of an infraction, 70% of the \$70 court fee would be deposited in the State General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** (Revised) Deeds must be recorded with the county recorder. The county recorder must send a copy of the deed to: (1) the Department of Natural Resources; and (2) the local cemetery board, or if no local cemetery board exists, to the county commissioners; not later than thirty (30) days after the deed is recorded. County recorders will experience an indeterminable increase in administrative expenses.

A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the DNR. If the burial ground is located outside of the municipality, the county executive must approve of the plan. A development plan of a governmental entity other than a municipality or the state must obtain approval of the county executive. Local governments should be able to absorb any expenses resulting from the above provisions given their current budgets.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a

prisoner in a county jail is approximately \$44. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Natural Resources and the Department of Correction.

**Local Agencies Affected:** Trial courts and local law enforcement agencies.

**Information Sources:** Rick Jones, State Archaeologist, DNR (317) 233-0953; Indiana Sheriffs Association, and the Department of Correction.